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ABSTRACT

This brief report focuses on one issue discussed in the General Accounting Office's (GAO) review of the foster care reforms required for states' receipt of additional funds under the Child Welfare Services grants program: whether the Administration for Children, Youth, and Families (ACYF) is providing incentive funds only to those states that have instituted the reforms ACYF requires under section 427 of the Social Security Act. GAO found that ACYF has been diligent about recouping Child Welfare Services incentive funds once a state has been determined to be ineligible for these funds. Conversely, ACYF has been slow to review the performance of some states that have failed compliance reviews in previous years, resulting in payments of about 24.7 million dollars since 1984 to six states that may not have been eligible for those funds. Recommendations and ACYF comments are included in the text, along with an appended table of data on incentive funds paid to states after they failed their most recent compliance reviews. (RH)

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United States General Accounting Office

Report to the Commissioner of the Administration for Children, Youth and Families

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September 1989

FOSTER CARE

Delayed Follow-Up of Noncomplying States May Reduce Incentive for Reform

PS 018426

GAO/PEMD-89-16

GAO

United States
General Accounting Office
Washington, D.C. 20548

Program Evaluation and
Methodology Division

B-200518

September 13, 1989

The Honorable Dodie Truman Borup
Commissioner, Administration for Children, Youth and Families
Department of Health and Human Services

Dear Ms. Borup:

At the request of the ranking minority members of the Senate Labor and Human Resources Subcommittee on Children, Family, Drugs, and Alcoholism, and the House Select Committee on Children, Youth and Families, we conducted a review of the foster care reforms required for states' receipt of additional funds under the Child Welfare Services grants program. This report addresses one issue developed and included in our review: whether the Administration for Children, Youth and Families (ACYF) is providing incentive funds only to those states that have instituted the reforms ACYF requires under section 427 of the Social Security Act. A primary report to the committees will convey the full findings and recommendations from our comprehensive review of the implementation, effects, and continued need for these federal incentives for foster care reform.

Results in Brief

We found that ACYF has been diligent about recouping Child Welfare Services incentive funds once a state has been determined to be ineligible for these funds. In only 1 of the 21 instances in which it was finally determined that a state had not met the agency's requirements for a given year did ACYF fail to attempt to recoup those funds.

Conversely, ACYF has been slow to review the performance of some states that have failed compliance reviews in previous years, resulting in payments of about $24.7 million since 1984 to six states that may not have been eligible for those funds. The issue is, of course, not purely a financial one. Providing funds without assessing states' implementation of the required protections weakens the incentives for reform and thereby could cause delays in finding permanent homes for foster children.

Background

The Child Welfare Services grants program under Title IV-B of the Social Security Act assists states in delivering foster-care-related services to children and families. Section 427 of the act requires, among other things, that states institute certain foster care protections in order

to receive their full share of increased appropriations under this program. These protections include a case review system in which each child in foster care has a written case plan, the status of the child is reviewed every six months, and a dispositional hearing is held no later than 18 months after the initial placement (and periodically thereafter). The availability of additional funds serves as an incentive for states to institute protections for children in foster care and to ensure that efforts are made to reunify children with their families or to place them for adoption.

Each state must certify that it is in compliance with section 427 in order to receive the incentive funds. ACYF verifies a state's compliance with the section 427 requirements and its consequent eligibility for incentive funds through both review of state policies and procedures and periodic review of a random sample of case records. These case-record reviews evaluate the consistency with which the protections are provided across the caseload in a particular fiscal year. Compliance reviews are conducted for each of the first two years of a state's receipt of incentive funds and for every third year thereafter. ACYF reviews are retrospective—that is, they occur after the fiscal year for which the state received incentive funds has ended. States failing a review are informed by the commissioner that they must return the incentive funds received for the year examined and that they may appeal ACYF's decision to the agency's Departmental Appeals Board (DAB). States failing a review are generally reviewed again the following year. While a state's eligibility decision is being appealed, ACYF considers the state eligible for incentive funds so long as the state continues to certify its compliance with section 427.

As one component of our review, we examined the procedures used by ACYF to determine a state's compliance with the requirements and thus its eligibility for incentive funds. We also compared ACYF's payments to the states with the results of the agency's determinations of states' eligibility for those funds. Our review covered all 50 states and the District of Columbia during the period 1981 through 1988 and was conducted in accordance with generally accepted government auditing standards.

Principal Findings

Recoupment Diligent After Final Noncompliance Determinations

Since 1980, when the legislation was enacted, 15 states have failed compliance reviews for at least one to as many as four years. From those states finally determined to be out of compliance, ACYF has recouped the resulting overpayment in all but one case, typically by reducing a state's payment in a succeeding year. The payment in question was made to Ohio in fiscal year 1984. Although Ohio entered—and lost—appeals of ACYF's noncompliance decisions for fiscal years 1981 and 1983, the $832,216 in additional funds Ohio received in 1984 have not been recorded as an overpayment in need of recoupment. Due to DAB decisions signed in April 1989, ACYF may now also recoup incentive payments made to Illinois in 1984 ($1,034,619) and to Maryland in 1983 ($250,335).

Failure to Rereview Noncomplying States

For states failing federal compliance reviews for fiscal years 1981 through 1983, ACYF generally followed its stated practice of promptly reviewing a state's compliance for the fiscal year following the year for which it failed. However, by the end of fiscal year 1988, ACYF had not yet conducted such a follow-up review for six states that failed a review for fiscal years 1983 through 1985. (See appendix I.[1]) Indeed, we found that two of these states, which have been awarded incentive funds since 1984 totaling over $5,767,000, had not been rereviewed to determine their eligibility for these monies through fiscal year 1988.

The fact that a state fails to meet agency compliance standards in one year does not necessarily imply that it will not meet them in the succeeding year. However, prompt rereview is important for program integrity because payments to a state in the years immediately following its failure of a review might require later recoupment. In the past, of the 17 follow-up reviews (involving 11 states) that have been conducted in this program, 7 (involving 5 states) have resulted in findings of noncompliance in a subsequent year. This indicates that some of the $24.7 million provided prior to follow-up reviews to those six states that have failed their most recently completed reviews may need to be recouped.

[1] ACYF officials have stated that rereviews are currently under way in two of these states. A seventh state, Idaho, failed its compliance review for fiscal year 1986. However, because DAB reversed ACYF's determination early in 1989, we do not include Idaho among the states ACYF should now rereview.

Recommendations

Although continuing incentive payments to a state that failed its last review does not violate section 427, we believe it is imprudent to provide these funds for several years without reevaluating the state's performance. Moreover, we believe that ACYF should promptly rereview a state that it finds to be out of compliance, regardless of whether the state appeals that decision. Consequently, we recommend that ACYF promptly conduct and complete the postponed rereviews of those six states that failed a review between 1983 and 1985, in order to ensure that incentive funds are expended in compliance with the law, and conduct periodic reviews promptly in the future—that is, immediately following the end of the fiscal year due for review. Further, we recommend that ACYF promptly recoup the overpayments made in 1983 to Maryland and in 1984 to Illinois and Ohio.

Agency Comments

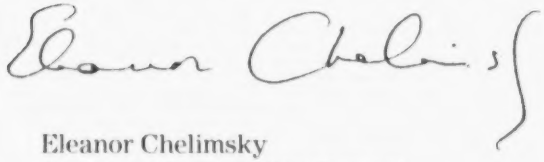
In discussions with ACYF officials, we were told that ACYF intends to recoup the above-mentioned overpayments to Illinois, Maryland, and Ohio now that the decisions for Illinois and Maryland have been upheld by DAB. They informed us that compliance reviews had been conducted in fiscal year 1989 for two of the six states not yet reviewed (Vermont and West Virginia) but that ACYF had not yet reached compliance decisions for those reviews. ACYF officials explained that follow-up reviews for all six states had not yet been conducted because final determinations of eligibility had been delayed by the appeals process and restrictions in agency travel funds had limited their ability to conduct additional reviews.

According to our review of agency records, two of these seven past-noncompliance decisions have not been appealed. Moreover, agency records show that such appeals are not unusual and have not delayed retesting in the past. States had entered appeals in 12 of the 17 instances in which follow-up reviews were conducted in the past, and all of those reviews were conducted within three years of the initial failure. In contrast, for all of the six states not yet rereviewed, it has been more than three years since they failed their last review.

As you know, 31 U.S.C. 720 requires that the head of a federal agency submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Copies of this letter are being provided to the members requesting this review, Senator Dan Coats and Representative Thomas J. Bliley, Jr., to interested organizations, and to others upon request. If you have any questions or would like additional information, please call me at 202-275-1854. This report was prepared under the direction of Lois-ellin Datta, Director of Program Evaluation in Human Services Areas (202-275-1370). Other major contributors are listed in appendix II.

Sincerely yours,



Eleanor Chelimsky
Assistant Comptroller General

Appendix I

Incentive Funds Paid to States After They Failed Their Most Recent Compliance Reviews[a]

State	1984	1985	1986	1987	1988	Total
Connecticut			$556[b]	$792	$859	**$2,208**
Idaho				[c]		
Illinois		$2,911[d]	2,752	3,886	4,296	**13,845**
Maryland	$381[d]	929	969	1,256	1,556	**5,092**
New Hampshire		324[e]	148	341	294	**1,106**
Vermont	96[f]	[g]	159	221	200	**675**
West Virginia			581[h]	850	376	**1,806**
						24,733

[a]Table is for fiscal years; payments are reported in thousands.

[b]State failed, appealed, and lost its appeal of the previous year's review.

[c]State initially failed the previous year's review but subsequently was found in compliance by DAB.

[d]State failed, appealed, and recently lost its appeal of the previous year's review.

[e]State failed and did not appeal the previous year's review.

[f]State failed the previous year's review and then dropped an appeal of the review. A follow-up review is currently under way.

[g]State payment reduced by recoupment of a previous overpayment.

[h]State failed and did not appeal the previous year's review. A follow-up review is currently under way.

Major Contributors to This Report

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